

EXHIBIT 43

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**CURLING PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

Defendants claim they are using cutting edge statewide risk-limiting audits. They are not. By definition, a risk-limiting audit has a known minimum chance of correcting the reported election outcome if the reported outcome is wrong. (*Id.* ¶ 6.) Defendants’ audit rules fall short, because they do not call for true risk-limiting audits, call for audits of only one contest, among dozens, every two years, explicitly allow for political influence, and fail to follow basic principles for election integrity. (*Id.* ¶¶ 4-16.) A post-election audit of a meaningfully flawed paper trail cannot cure the flaws of that paper trail.

6. Elements of the DRE/GEMS System Still Plague BMDs

Defendants continue to claim that the DRE/GEMS system is separate and apart from BMDs, and the issues that compromised the DRE system have no effect on BMDs. Defendants are wrong. (Halderman Decl. ¶¶ 11-12, 15-35, 47.) For example, Defendants ignore that the voter registration database remains the same one from the DRE era. (Halderman Decl. ¶ 12.) As Dr. Coomer explains, the new Poll pads used with BMDs will “receive flat text files for each election containing the then-current voter information from the state’s voter-registration database.” (Dkt. No. 821-1 ¶ 8.) This is the same database that Fortalice reported could be accessed by hundreds of individuals in 2017 and had rampant security issues. *Curling II*, 397 F. Supp. 3d at 1377-78. This alone reveals a dangerous link

between the old system and the new, in addition to the fact that many of the same personnel, network, and hardware support the new system.

7. State Defendants’ Arguments Regarding “Actual Compromise” Are Meritless

State Defendants make much of the fact that Plaintiffs’ analysis of the DRE/GEMS system has not yet revealed any actual compromise, but this argument runs counter to the Court’s detailed findings of acute vulnerabilities at every level of the Georgia system. *Curling II*, 397 F. Supp. 3d at 1410-12. The Court has never required evidence of any actual attack as a threshold for relief. Were this the threshold, then the results would be disastrous.

As a practical matter, Defendants ignore that they have obstructed and delayed Dr. Halderman’s analysis, only recently producing thousands of memory cards for just three counties and even more recently some DRE data. (*See* Halderman Decl. ¶¶ 15-35.) Defendants may not know how long it takes to forensically examine such materials since they have never had it done, but it unfortunately is difficult and time-consuming—and it may find nothing merely because attacks can be undetectable. Thus, the outcome of any such examination cannot rule out the possibility of malware in the system, nor does the examination dictate whether the Curling Plaintiffs are entitled to the relief they seek. As to the KSU server, Defendants conveniently ignore their spoliation of data on the server. *Curling II*, 397 F. Supp.

Dated: September 1, 2020

Respectfully submitted,

/s/ David D. Cross

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